

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

NICOSHALMAR SPANN, *et al*,

Plaintiffs,

vs.

T-MOBILE N.A., *et al*,

Defendants.

2:23-cv-00189-GMN-VCF

ORDER TO STRIKE

AMENDED COMPLAINTS [ECF NOS. 22 AND 30]

I recently held an in-person hearing regarding pro se plaintiff's deficient signature on his amended complaint. ECF No. 29. I clarified on the record that plaintiff must sign his name on the amended complaint, without use of the phrase "without recourse" pursuant to FRCP 11. Rule 11(a) allows a party to correct promptly a signature deficiency, and courts have permitted pro se plaintiffs to sign complaints to avoid dismissal. *Becker v. Montgomery*, 532 U.S. 757, 764, 121 S. Ct. 1801, 149 L. Ed. 2d 983 (2001). When a litigant affixes the phrase without recourse next to the signature it strongly suggests that the litigant is attempting to avoid the potential consequences of untruthful answers. See *Bey v. Nev. Power Co.*, 2022 U.S. Dist. LEXIS 185371, 3. This Court has the inherent power to strike material from the docket to control litigation conduct and to supervise the contents of that docket. *Ready Transp., Inc. v. AAR, Mfg.*, 627 F.3d 402, 404-05 (9 Cir. 2010).

At the hearing I specifically ordered the plaintiff to refile his amended complaint with a rule-compliant signature and without the disclaimer "without recourse." Plaintiff refiled his amended complaint, but he did not comply with my order. Plaintiff again signed his complaint with use of the disclaimer "without recourse." I also noted at the hearing that his filing improperly implied that he is an attorney by calling himself an attorney in fact and agent in his complaint. Plaintiff confirmed at the

1 hearing that he is not an attorney in any jurisdiction. Plaintiff, however, again improperly suggests that
2 he is an attorney in his amended complaint. Plaintiff is a frequent litigator in this court. Although he is
3 proceeding pro se, he must follow the rules of this court and my orders. Since plaintiff is pro se, I will
4 give plaintiff one more opportunity to comply with my order. Plaintiff must not sign his name with any
5 disclaimer, such as the phrase “without recourse.” Plaintiff is also reminded that he must be truthful in
6 his pleadings.

7 Accordingly,

8 I ORDER that plaintiff’s amended complaints (ECF Nos. 22 and 30) are STRIKEN from the
9 docket.

10 I FURTHER ORDER that plaintiff has until Wednesday, August 2, 2023, to file an amended
11 complaint that complies with my order and the court’s rules.

12 I FURTHER ORDER that failure to timely comply with this Order may result in a
13 recommendation that this case be dismissed with prejudice.

14 I CAUTION plaintiff that continuing to file duplicative papers may result in adverse
15 consequences, including possible sanctions or a finding that he is a vexatious litigant.

16 **NOTICE**

17 Pursuant to Local Rules IB 3-1 and IB 3-2, a party may object to orders and reports and
18 recommendations issued by the magistrate judge. Objections must be in writing and filed with the Clerk
19 of the Court within fourteen days. LR IB 3-1, 3-2. The Supreme Court has held that the courts of appeal
20 may determine that an appeal has been waived due to the failure to file objections within the specified
21 time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985).


22 This circuit has also held that (1) failure to file objections within the specified time and (2)
23 failure to properly address and brief the objectionable issues waives the right to appeal the District
24 Court's order and/or appeal factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d
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1 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

2 Pursuant to LR IA 3-1, the plaintiff must immediately file written notification with the court of any
3 change of address. The notification must include proof of service upon each opposing party's attorney,
4 or upon the opposing party if the party is unrepresented by counsel. Failure to comply with this rule may
5 result in dismissal of the action.

6 IT IS SO ORDERED.

7 DATED this 19th day of July 2023.

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9 CAM FERENBACH
10 UNITED STATES MAGISTRATE JUDGE
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